

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MICHAEL GARCIA,

Plaintiff,

v.

9:12-CV-0924
(GTS/ATB)

R. FURNIA, Sgt.; Clinton Corr. Facility; and
DOES, Corr. Officials, Clinton Corr. Facility,

Defendants.

APPEARANCES:

OF COUNSEL:

MICHAEL GARCIA, No. 17182
Plaintiff, *Pro Se*
Seneca County Sheriff's Office
6190 State Route 96
Romulus, New York 14541

HON. ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
Counsel for Defendants
The Capitol
Albany, New York 12224

ADRIENNE J. KERWIN, ESQ.
Assistant Attorney General

GLENN T. SUDDABY, United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* prisoner civil rights action filed by Michael Garcia ("Plaintiff") against the above-captioned individuals ("Defendants"), are Defendants' unopposed motion for partial summary judgment, and United States Magistrate Judge Andrew T. Baxter's Report-Recommendation recommending that Defendants' motion be granted. (Dkt. Nos. 30, 35.) Plaintiff has not filed an Objection to the Report-Recommendation (despite the extension of the deadline by which to do so). (*See generally* Docket Sheet.) After carefully reviewing the relevant filings in this action, the Court can find no clear error in the Report-

Recommendation: Magistrate Judge Baxter employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Court accepts and adopts the Report-Recommendation for the reasons stated therein. (Dkt. No. 35.)

ACCORDINGLY, it is

ORDERED that Magistrate Judge Baxter's Report-Recommendation (Dkt. No. 35) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

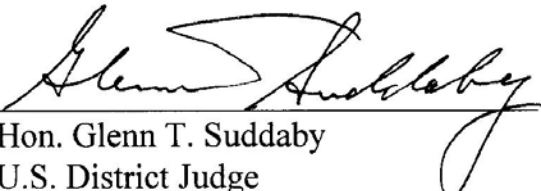
ORDERED that Defendants' motion for partial summary judgment (Dkt. No. 30) is **GRANTED**; and it is further

ORDERED that Plaintiff's Eighth Amendment claim that he was denied adequate medical care by Defendants is **DISMISSED**; and it is further

ORDERED that Pro Bono Counsel be appointed for the Plaintiff for purposes of trial only; any appeal shall remain the responsibility of the plaintiff alone unless a motion for appointment of counsel for an appeal is granted; and it is further

ORDERED that upon assignment of Pro Bono Counsel, a final pretrial conference with counsel will be scheduled in this action, at which time the Court will schedule a jury trial for Plaintiff's Eighth Amendment claims of excessive force against Defendant Furnia. Counsel are directed to appear at the final pretrial conference with settlement authority from the parties.

Dated: September 19, 2014
Syracuse, New York


Hon. Glenn T. Suddaby
U.S. District Judge